

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

ELSTER SOLUTIONS, LLC, a Delaware
Limited Liability Company,

Plaintiff,

v.

THE CITY OF SEATTLE, a municipal
corporation, *et al.*,

Defendants.

NO. C16-771RSL

PRELIMINARY INJUNCTION

On April 12, 2016, defendant Phil Mocek submitted a Public Records Act request to Seattle City Light seeking:

Plans for, schedules of, policies dictating the performance of, requests for proposals to, contracts for, discussion of, and results of all security audits performed of “smart meter” devices (remotely-addressable electrical meters sometimes referred to as “advance metering infrastructure”) along with metadata.

Decl. of Stacy Irwin (Dkt. # 19) at ¶ 3.¹ The utility’s public disclosure officer determined that a proposal plaintiff submitted in response to a request for proposal, SLC-RFP-3404, was responsive and notified plaintiff that the documents would be disclosed unless plaintiff timely obtained a temporary restraining order preventing the release of confidential commercial information. Plaintiff filed this action, gave notice to the interested parties – defendants City of

¹ The request was “[f]iled via MuckRock.com.” *Id.* at ¶ 4.

1 Seattle, Mocek, and MuckRock Foundation, Inc. – and obtained a restraining order on May 26,
2 2016. The Court further ordered defendants to show cause why the City of Seattle should not be
3 preliminarily enjoined from disclosing confidential or proprietary information contained in the
4 proposal during the pendency of this action.

5 Having reviewed the memoranda, declarations, and exhibits submitted by Elster and the
6 City and having heard from the parties at the hearing on June 9, 2016,² the Court finds as
7 follows:


8 (1) The temporary restraining order is hereby converted to a preliminary injunction. The
9 City of Seattle is enjoined and restrained, directly or indirectly, and whether alone or in concert
10 with others, including any officer, agent, representative, and/or employee of defendant City of
11 Seattle or Seattle City Light, from releasing or otherwise disclosing the unredacted version of the
12 proposal submitted by Elster in connection with “SCL-RFP3404, Advanced Metering
13 Infrastructure.” Defendants have already disclosed the redacted version of the proposal: no
14 restrictions on its further dissemination have been requested or are warranted.

15 (2) Mr. Mocek argues that a third party vendor such as Elster should not have the power
16 to unilaterally limit or thwart the public’s right of access to agency documents. The argument is
17 well-taken. The City has asserted that it is not in a position to evaluate Elster’s trade secret and
18 confidentiality claims. Whether the Court is better suited to the task is unclear, but some review
19 of Elster’s designations is necessary. Elster shall, within five days of the date of this Order,
20 produce for *in camera* review the documents submitted in connection with “SCL-RFP3404,
21 Advanced Metering Infrastructure,” in their original form along with copies of the redacted
22 pages.

23 (3) The preliminary injunction will remain in full force and effect unless and until the
24 Court directs otherwise.

26 ² Formal service on defendants MuckRock and Mocek has not yet been effected, but both parties
27 appeared at the hearing.

1 Dated this 9th day of June, 2016.

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3 Robert S. Lasnik
4 United States District Judge
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